

ESTTA Tracking number: **ESTTA608204**

Filing date: **06/05/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Moneybird Holding B.V.		
Entity	besloten vennootschap (b.v.)	Citizenship	Netherlands
Address	Brouwerijstraat 26, 7523 XD Enschede, Overijssel, NETHERLANDS		

Attorney information	Cecilia R. Dickson The Webb Law Firm One Gateway Center, 420 Ft. Duquesne Blvd., Suite 1200 Pittsburgh, PA 15222 UNITED STATES cdickson@webblaw.com, rbyrne@webblaw.com, byesenchak@webblaw.com, trademarks@webblaw.com
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### Applicant Information

Application No	86153278	Publication date	05/06/2014
Opposition Filing Date	06/05/2014	Opposition Period Ends	06/05/2014
Applicant	Halcyon MD SRL 36/10 M Viteazu Street Sighisoara 545400 Mures County, ROMANIA		

### Goods/Services Affected by Opposition


Class 009. First Use: 2013/07/17 First Use In Commerce: 2013/07/17 All goods and services in the class are opposed, namely: Computer application software for mobile phones and tablets, namely, software for inputting, creating, providing, and accessing information in the field of personal finance, namely, calendar-based personal expense, personal income and personal budget information
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### Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85879880	Application Date	03/19/2013
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MONEYBIRD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0  Computer software for invoicing, invoice payment, accounting services, book-keeping of incoming invoices and financial management; computer application software for mobile telephones, handheld computers, portable computers, desktop computers and any internet-enabled devices or computers, namely, software for invoicing, invoice payment, accounting services, bookkeeping of incoming invoices, accounting database management and financial management; computer software for use in invoicing; computer software for use in accounting; computer software for use in generating reports</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0  Providing office functions; accountancy services; data management services for financial and accounting data of customers; data handling services, namely, processing, data management services for use in accounting, invoicing and bill payment; accounting services; preparing of value-added tax (VAT) returns; business administration, namely, management, invoicing, billing assistance, accounting and business consulting; accounting and invoicing information services provided by means of a call center; billing services; invoicing; online invoicing, electronic invoicing accounting services and bookkeeping of incoming invoices; on-line payment of invoices, namely invoice payment services provided through a website; and bookkeeping of incoming invoices</p> <p>Class 036. First use: First Use: 0 First Use In Commerce: 0  Electronic payment services involving electronic processing and subsequent transmission of bill payment data; invoice payment services; providing electronic processing of electronic funds transfer, ACH, credit card, debit card, electronic check and electronic payments</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0  Computer programming; IT consulting services; technical support services, namely, troubleshooting of computer software problems; computer technology support services, namely, help desk services; maintenance of computer software; updating of computer software; rental of software for invoicing and accounting; rental of data processing software; providing temporary use of non-downloadable computer software for use in database and spreadsheet management in relation to and for use in accounting services, invoicing and billing services and financial account management</p> <p>Class 045. First use: First Use: 0 First Use In Commerce: 0  Licensing of intellectual property</p>		

Attachments	85879880#TMSN.jpeg( bytes ) Notice of Opposition.pdf(14185 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Cecilia R. Dickson/
Name	Cecilia R. Dickson
Date	06/05/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MONEYBIRD HOLDING B.V.,

Opposer,

v.

HALCYON MD SRL,

Applicant.

Opposition No. \_\_\_\_\_

Application No. 86/153,278  
for the mark DOLLARBIRD

Published: May 6, 2014

**NOTICE OF OPPOSITION**

Opposer MoneyBird Holding B.V., a company having its principal place of business at Brouwerijstraat 26, 7523 XD Enschede, Overijssel, Netherlands (“Opposer”) believes it will be damaged by registration of the applied-for mark, DOLLARBIRD, in International Class 009 shown on Application Serial No. 86/153,278 (“Application”), and hereby opposes the Application pursuant to 15 U.S.C. §§ 1052 and 1063.

As grounds for opposing this application, Opposer avers as follows:

1. Opposer maintains a principal place of business at Brouwerijstraat 26, 7523 XD Enschede, Overijssel, Netherlands.
2. Upon information and belief, Halcyon MD SRL (“Applicant”) maintains a principal place of business located at 36/10 M Viteazu Street Sighisoara 545400, Mures County, Romania.
3. Applicant filed an application for registration of DOLLARBIRD in connection with goods in International Class 09, namely, “computer application software for mobile phones and tablets, namely, software for inputting, creating, providing, and accessing information in the field

of personal finance, namely, calendar-based personal expense, personal income and personal budget information” on December 27, 2013. The application identifies an alleged date of first use in commerce of July 17, 2013.

4. Opposer filed an application for registration of MONEYBIRD (Serial No. 85/879,880) on March 19, 2013 in connection with International Classes 09, 35, 36, 42 and 45. In relation to Class 09, Opposer sought registration for “computer software for invoicing, invoice payment, accounting services, bookkeeping of incoming invoices and financial management; computer application software for mobile telephones, handheld computers, portable computers, desktop computers and any internet-enabled devices or computers, namely, software for invoicing, invoice payment, accounting services, bookkeeping of incoming invoices, accounting database management and financial management; computer software for use in invoicing; computer software for use in accounting; computer software for use in generating reports.”

5. Opposer owns a European Community registration (011213352) for the MONEYBIRD mark which registered on April 1, 2013.

6. Opposer has invested significant resources in creating its MONEYBIRD mark and in generating goodwill associated with that mark.

7. Applicant filed its DOLLARBIRD trademark application after it had been put on notice by Opposer that Opposer believed there was a likelihood of confusion between its MONEYBIRD mark and Applicant’s DOLLARBIRD mark.

8. Applicant’s use of and registration of the DOLLARBIRD mark will intentionally, falsely, and fraudulently suggest an affiliation with the Opposer.

9. Applicant’s mark is similar in sound, meaning and appearance to Opposer’s MONEYBIRD mark.

10. A consumer confronted with Applicant's mark would likely be confused as to the source of the mark, and would believe any marketing, goods or services provided under that mark were originating with, associated with, affiliated with, endorsed by, or otherwise approved by Opposer.

11. Opposer has the senior interest in its MONEYBIRD mark in comparison to Applicant's interest in its DOLLARBIRD mark.

12. Opposer avers that Applicant's use and registration of DOLLARBIRD would damage it for the following reasons: (a) Registration would give Applicant the unqualified right to pass off its mark and the goods and services provided thereunder as that of the Opposer; (b) Applicant's DOLLARBIRD mark would likely cause confusion and mistake in the minds of the public or deceive the public because, upon encountering DOLLARBIRD, the public would believe that such mark originated with, has some connection or association with, or is sponsored or approved by Opposer. Further, the Applicant's DOLLARBIRD mark is expected to be used and is used in direct competition with similar services of those of Opposer.

13. Applicant's use of the term DOLLARBIRD constitutes wrongful appropriation of Opposer's valuable goodwill associated with its MONEYBIRD mark.

14. Applicant's mark, used in connection with the goods described in the application, is confusingly similar to Opposer's mark.

15. In view of the above, Applicant's mark is likely to cause confusion, mistake, or deceive purchasers as to source suggesting Applicant is associated with or approved, endorsed, affiliated or authorized by Opposer.

16. Applicant's mark will dilute and lessen the capacity of Opposer's distinctive mark to distinguish Opposer's goods and services from those of others.

WHEREFORE, Moneybird Holding B.V. respectfully prays that the application for registration by Applicant be refused and that this opposition be sustained.

Respectfully submitted,

Dated: June 5, 2014

/Cecilia R. Dickson /  
Richard L. Byrne, Reg. No. 28,498  
Cecilia R. Dickson, PA. ID No. 89348

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the NOTICE OF OPPOSITION was served via first class mail, postage pre-paid and e-mail this 5<sup>th</sup> day of June 2014 upon the following:

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/Cecilia R. Dickson /  
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Attorney for Opposer